

DOWD, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Herman E. Garner, III

Petitioner,

V.

United States of America,

Respondent.

$$\begin{array}{c} ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \end{array}$$

CASE NO. 4:07CV1964  
4:01CR0321

### JUDGMENT ENTRY

For the reasons states in the Memorandum Opinion filed contemporaneously with this Judgment Entry, it is hereby ORDERED, ADJUDGED and DECREED that Petitioner-Defendant's petition is dismissed without prejudice to Petitioner's ability to file an initial 28 U.S.C. Section 2255 to challenge the terms of the sentence after the sentence has been imposed.

The Court also certifies, pursuant to 28 U.S.C. 1915(a)(3), that an appeal from this decision could not be taken in good faith.

The Court further finds no basis for a certificate of appealability and will not issue a certificate of appealability.

IT IS SO ORDERED.

August 13, 2007,  
Date

*s/ David D. Dowd, Jr.*  
 David D. Dowd, Jr.  
 U.S. District Judge